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10/590,109	04/12/2007	Klaus Kulper	101769-371 KGB	5103
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Briscoe, Kurt G. Norris McLaughlin & Marcus, PA 875 Third Avenue, 8th Floor New York, NY 10022			PATEL, RONAK C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,109

Applicant(s)

KULPER ET AL.

Examiner

RONAK PATEL

Art Unit

1788

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/31/2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/31/2011 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 13, it is unclear how the subject had possession of the claimed invention. In claim 13, it is unclear how the subject matter, "where the layers A and B do not exhibit an offset" derives antecedent support in the originally filed specification. However, there is no support in the present specification for such limitation. Thus claim 13 lacks written description requirement.

3. The cited phraseology clearly signifies a "negative" or "exclusionary" limitation for which the applicants have no support in the original disclosure. Negative limitations in a claim which do not appear in the specification as filed introduce new concepts and violate the description requirement of 35 USC 112, first paragraph, *Ex Parte Grasselli, Suresh, and Miller*, 231 USPQ 393, 394 (Bd. Pat. App. and Inter. 1983); 783 F. 2d 453.
4. The insertion of the above phraseology as described above positively excludes "wherein the layers A and B do not exhibit an offset", however, there is no support in the present specification for such exclusions. While the present specification is silent with respect to the use of "wherein the layers A and B do not exhibit an offset" is noted that as stated in MPEP 2173.05(i), the "mere absence of a positive recitation is not the basis for an exclusion."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 1-3, 5, 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806)
7. Regarding claims 1-2, 5, 7-12 Samson-Himmelstjerna discloses an adhesive tape for bandaging cable harnesses (abstract) comprising a backing layer having two layers and an interlayer having an adhesive composition use to laminate the two layers comprising backing material (Para 0056). Samson-Himmelstjerna also discloses the

backing material for the adhesive tape can be composed of woven or knits (para 0027), Suitable material envisaged for the textile backing include, in particular polyester or cotton fibers (para 0050) and the interlayer is composed of double sided adhesive tape (para 0056) and also discloses the inter adhesive coating applied to the backing has a basis weight of 25 to 80 g/m², which falls in the range of claim limitation (para 0085) and discloses that the adhesive composition used in the interlayer being composed of viscoelasticity adhesive or double sided adhesive based on different polymer system, with natural or synthetic rubber and polyacrylates or silicones (para 0057), the base materials of the backing may be chosen from the woven belt of glass fiber, polyester or polyamide, which reads on the claim 5, the interlayer is composed of double sided adhesive tape (para 0055), as can be seen in the figure para 0055. Samson-Himmelstjerna also discloses adhesive coating applied to the backing has a basis weight of 25 to 80 g/m² (para 0085) and also discloses the self adhesive compounds such as polyacrylates or silicones (para 0057). Samson-Himmelstjerna discloses a method for wrapping an elongate product guiding tape in a helical spiral around the elongate product, which also covers the elongate product in its axial direction (para 0019), a method of wrapping an elongate product, especially cable harnesses with a tape (abstract), Samson-Himmelstjerna discloses a backing layer having an outer layer and second outer layer composed of polyester and double sided adhesive composed of self adhesive compound such as acrylate or silicone adhesive similar to the used by the applicant of the present invention, it therefore would be inherent that the adhesive tape for cable harnesses is highly abrasion resistant.

8. It would be obvious to one of ordinary skill in the art at the time of invention to optimize routine experimentation and chose the basis weight between 30 and 80 g/m² for the inter layer C to get the desired thickness to have improved structural strength and rigidity of the adhesive tape. As set forth in MPEP 2144.05, in the case where the claimed range "overlap or lie inside ranges disclosed by the prior art", a *prima facie* case of obviousness exists, In re Wertheim, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); In re Woodruff, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990).

9. Regarding claim 3, Samson-Himmelstjerna discloses an abrasion resistant tape for bandaging cable harnesses comprising a backing layer having two layers and an interlayer having an adhesive composition use to laminate the two layers comprising backing material (Para 0056). Samson-Himmelstjerna also discloses the backing material for the adhesive tape can be composed of woven or knits (para 0027) and the interlayer is composed of double sided adhesive tape (para 0057). However, Samson-Himmelstjerna fails to mention that the abrasion resistance of the backing (measured in accordance with ISO 6722, section 9.3 "scrape abrasion resistance") is at least 150% of the sum of the abrasion resistance of the individual piles.

10. However, Samson-Himmelstjerna discloses that the adhesive composition used in the interlayer being composed of viscoelasticity adhesive or double sided adhesive based of different polymer system, with natural or synthetic rubber and polyacrylates or silicones (para 0057) and the inter adhesive coating applied to the backing has a basis weight of 25 to 80 g/m², which falls in the range that the applicant has disclosed in his specification. Samson-Himmelstjerna also discloses the base materials of the backing

may be chosen from the woven belt of glass fiber, polyester or polyamide, similar to the backing material as used by the applicants in his invention and also it is not found that the production methods of these are meaningful different. Therefore, it would be expected that they would intrinsically exhibit similar or substantially similar properties having abrasion resistance of the backing (measured in accordance with ISO 6722, section 9.3 "scrape abrasion resistance") is at least 150% of the sum of the abrasion resistance of the individual piles.

11. The Patent and Trademark Office can require Applicant to prove that prior art products do not necessarily or inherently possess characteristics of claimed products where claimed and prior art products are identical or substantially identical, or are produced by identical or substantially identical processes; burden of proof is on Applicants where rejection based on inherency under 35 U.S.C. § 102 or on prima facie obviousness under 35 U.S.C. § 103, jointly or alternatively, and Patent and Trademark Office's inability to manufacture products or to obtain and compare prior art products evidences fairness of this rejection, *In re Best*, *Bolton*, and *Shaw*, 195 U.S.P.Q. 431 (CCPA 1977).

12. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806) in view of Lodde (US 2002/0053392).

13. Regarding claim 6, Samson-Himmelstjerna fails to disclose that the double sided backing is applied with viscoelastic adhesive layer. However, Lodde discloses an adhesive tape for covering longitudinally extended products such as cables (abstract), which is provided with one side self adhesive layer in slight contact with two adhesive

layers lying on one another (claim 1). The motivation for using the adhesive agents used for adhesive tapes that are viscoelastic adhesives is to have permanent adhesive capacity at room temperature, in solvent free form and with a slight contact pressure, adhere to almost all substrates (para 0003).

14. In light of the motivation for applying viscoelastic adhesive on to a double sided backing as taught by Lodde as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to have the interlayer C which is composed of double sided adhesive of Samson-Himmelstjerna with the basis weight in the range of 25 to 80 g/m² with the viscoelastic adhesive of Lodde which is used in the adhesive tape for cable harnesses to have permanent adhesive capacity at room temperature, in solvent free form and with a slight contact pressure, adhere to almost all substrates (para 0003).

15. Regarding claim 13, Samson-Himmelstjerna fails to disclose that the outer layers do not exhibit an offset. However, Lodde discloses an adhesive tape for covering longitudinally extended products such as cables (abstract), which is provided with one side self adhesive layer in slight contact with two adhesive layers lying on one another (claim 1). As shown in figure 2, the adhesive layers 2a and 2b, which corresponds to the outer layer of the present invention lie on one another (para 0022) which clearly indicates that it does not exhibit offset. The motivation for forming an adhesive layers lying on one another is to form homogenous mass with the dissolution of interfaces of adhesive layers and to create necessary energy for the activation of the bonding process (para 0039-0040).

16. In light of the motivation for forming an adhesive layers lying on one another as taught by Lodde as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to form the outer layers of Samson-Himmelstjerna that does not exhibit offset as taught by Lodde which is used in the adhesive tape for cable harnesses to form homogenous mass with the dissolution of interfaces of adhesive layers and to create necessary energy for the activation of the bonding process (para 0039-0040).

17. Claims 1-3, 5, 7-12, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806) in view of Zafiroglu (US 7622408)

18. Regarding claims 1-2, 5, 7-12, 14-15 Samson-Himmelstjerna discloses an adhesive tape for bandaging cable harnesses (abstract) comprising a backing layer having two layers and an interlayer having an adhesive composition use to laminate the two layers comprising backing material (Para 0056). Samson-Himmelstjerna also discloses the backing material for the adhesive tape can be composed of woven or knits (para 0027), Suitable material envisaged for the textile backing include, in particular polyester or cotton fibers (para 0050) and the interlayer is composed of double sided adhesive tape (para 0057) and also discloses the inter adhesive coating applied to the backing has a basis weight of 25 to 80 g/m², which falls in the range of claim limitation (para 0085) and discloses that the adhesive composition used in the interlayer being composed of viscoelasticity adhesive or double sided adhesive based on different polymer system, with natural or synthetic rubber and polyacrylates or silicones (para

0057), the base materials of the backing may be chosen from the woven belt of glass fiber, polyester or polyamide, which reads on the claim 5, the interlayer is composed of double sided adhesive tape (para 0055), as can be seen in the figure para 0055.

Samson-Himmelstjerna also discloses adhesive coating applied to the backing has a basis weight of 25 to 80 g/m² (para 0085) and also discloses the self adhesive compounds such as polyacrylates or silicones (para 0057). Samson-Himmelstjerna discloses a method for wrapping an elongate product guiding tape in a helical spiral around the elongate product, which also covers the elongate product in its axial direction (para 0019), a method of wrapping an elongate product, especially cable harnesses with a tape (abstract), Samson-Himmelstjerna discloses a backing layer having an outer layer and second outer layer composed of polyester and double sided adhesive composed of self adhesive compound such as acrylate or silicone adhesive similar to the used by the applicant of the present invention, it therefore would be inherent that the adhesive tape for cable harnesses is highly abrasion resistant.

However, while Samson-Himmelstjerna discloses the preferable range for the basis weight of interlayer C which overlaps slightly with the claimed range, there is no disclosure of specific basis weight as presently claimed.

19. Whereas, Zafiroglu discloses a multilayer composite, this includes a face layer, an adhesive layer and a backing layer (abstract), the adhesive layer being the interlayer between the face layer and the backing layer. The adhesive layer contains thermoplastic or thermosetting adhesives, suitable material includes PE, PP, suitable basis weight for adhesive layer range from 4 oz/yd² to about 10 oz/yd², by converting

4 oz/yd² to grams/m², we get 135 g/m² and converting 10 oz/yd² to grams/m², we get 339 g/m² (col. 4, lines 48-53), which does fall in the range of the claimed basis weight for the interlayer. The motivation for having a basis weight between 135-339 g/m² of the inter layer is to form a composite material with improved structural strength and rigidity (col. 5, lines 10-13).

20. In light of the motivation for having the interlayer with the basis weight in the range of 135-339 as taught by Zafiroglu as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to have the interlayer C of Samson-Himmelstjerna with the basis weight in the range of 135-339 g/m² of Zafiroglu to make the adhesive tape with improved structural strength and rigidity.

21. Regarding claim 3, Samson-Himmelstjerna discloses an abrasion resistant tape for bandaging cable harnesses comprising a backing layer having two layers and an interlayer having an adhesive composition use to laminate the two layers comprising backing material (Para 0056). Samson-Himmelstjerna also discloses the backing material for the adhesive tape can be composed of woven or knits (para 0027) and the interlayer is composed of double sided adhesive tape (para 0057). However, Samson-Himmelstjerna fails to mention that the abrasion resistance of the backing (measured in accordance with ISO 6722, section 9.3 "scrape abrasion resistance") is at least 150% of the sum of the abrasion resistance of the individual piles.

22. However, Samson-Himmelstjerna in view of Zafiroglu discloses that the adhesive composition used in the interlayer being composed of viscoelasticity adhesive or double

sided adhesive based of different polymer system, with natural or synthetic rubber and polyacrylates or silicones (para 0057) and the inter adhesive coating applied to the backing has a basis weight of 25 to 80 g/m², which falls in the range that the applicant has disclosed in his specification. Samson-Himmelstjerna also discloses the base materials of the backing may be chosen from the woven belt of glass fiber, polyester or polyamide, similar to the backing material as used by the applicants in his invention and also it is not found that the production methods of these are meaningful different. Therefore, it would be expected that they would intrinsically exhibit similar or substantially similar properties having abrasion resistance of the backing (measured in accordance with ISO 6722, section 9.3 "scrape abrasion resistance") is at least 150% of the sum of the abrasion resistance of the individual piles.

23. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806) and Zafiroglu (US 7622408), further in view of Lodde (US 2002/0053392).

24. Regarding claim 6, Samson-Himmelstjerna in view of Zafiroglu fails to disclose that the double sided backing is applied with viscoelastic adhesive layer. However, Lodde discloses an adhesive tape for covering longitudinally extended products such has cables (abstract), which is provided with one side self adhesive layer in slight contact with two adhesive layers lying on one another (claim 1). The motivation for using the adhesive agents used for adhesive tapes are viscoelastic adhesives to have permanent adhesive capacity at room temperature, in solvent free form and with a slight contact pressure adhere to almost all substrates (para 0003).

25. In light of the motivation for applying viscoelastic adhesive on to a double sided backing as taught by Lodde as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to have the interlayer C which is composed of double sided adhesive of Samson-Himmelstjerna with the basis weight of Zafiroglu in the range of 135-339 g/m² with the viscoelastic adhesive of Lodde which is used in the adhesive tape for cable harnesses to have permanent adhesive capacity at room temperature, in solvent free form and with a slight contact pressure adhere to almost all substrates (para 0003).

26. Regarding claim 13, Samson-Himmelstjerna in view of Zafiroglu fails to disclose that the outer layers do not exhibit an offset. However, Lodde discloses an adhesive tape for covering longitudinally extended products such as cables (abstract), which is provided with one side self adhesive layer in slight contact with two adhesive layers lying on one another (claim 1). As shown in figure 2, the adhesive layers 2a and 2b, which corresponds to the outer layer of the present invention lie on one another (para 0022) which clearly indicates that it does not exhibit offset. The motivation for forming an adhesive layers lying on one another is to form homogenous mass with the dissolution of interfaces of adhesive layers and to create necessary energy for the activation of the bonding process (para 0039-0040).

27. In light of the motivation for forming an adhesive layers lying on one another as taught by Lodde as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to form the outer layers of Samson-Himmelstjerna that does not exhibit offset as taught by Lodde which is used in the

adhesive tape for cable harnesses to form homogenous mass with the dissolution of interfaces of adhesive layers and to create necessary energy for the activation of the bonding process (para 0039-0040).

28. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806) in view of Tanaka et al. (US 2003/0118769).

29. Regarding claim 4, Samson-Himmelstjerna fails to disclose that the interlayer C has the thickness of 50 to 1000 micrometer. However, Tanaka discloses a pressure sensitive adhesive sheet having a base material layer 11 between the release agent layer and coat layer as shown in figure 1 (para 0027). The pressure sensitive adhesive layer has a thickness from about 3 to 5000 micrometer (para 0035). The motivation for having the pressure sensitive adhesive layer to be in the range of about 3 to about 5000 micrometer to have a good adhesive strength that can adhere to the outlayers effectively.

30. In light of the motivation of having the base material layer with the thickness in the range of 3 to 5000 micrometer as taught by Tanaka as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to have the interlayer of Samson-Himmelstjerna with the thickness in the range of 1 to 5000 micrometer as taught by Tanaka to form an adhesive tape with good adhesive strength.

31. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samson-Himmelstjerna et al. (US 2003/0198806) and Zafiroglu (US 7622408), further in view of Tanaka et al. (US 2003/0118769)

32. Regarding claim 4, Samson-Himmelstjerna in view of Zafiroglu fails to disclose that the interlayer has the thickness in the range of about 50 to 1000 micrometer, whereas, Tanaka discloses a pressure sensitive adhesive sheet having a base material layer 11 between the release agent layer and coat layer as shown in figure 1 (para 0027). The pressure sensitive adhesive layer has a thickness from about 3 to 5000 micrometer (para 0035). The motivation for having the pressure sensitive adhesive layer to be in the range of about 3 to about 5000 micrometer to have a good adhesive strength that can adhere to the outerlayers effectively.

33. In light of the motivation of having the bas material layer with the thickness in the range of 3 to 5000 micrometer as taught by Tanaka as described above, it therefore would have been obvious to one of ordinary skill in the art at the time of invention to have the interlayer of Samson-Himmelstjerna with the thickness in the range of 3 to 5000 micrometer as taught by Tanaka to form an adhesive tape with an good adhesive strength.

Response to Arguments

34. Applicant's arguments filed 12/28/2010 have been fully considered but they are not persuasive.

35. With respect to the 112, first rejection of record, applicant argues that claim 13 does not include new subject matter; however, as support for the cited phrase, applicants note that the specification is silent about the tapes being laminated together with an offset. However, as set forth in MPEP 2173.05(i), the "mere absence of a positive recitation is not the basis for an exclusion." Applicants also argue that since

layers A and B being offset is positively recited, Applicants may exclude this embodiment. However, while it is agreed that if alternative elements are positively recited in the specification, they may be excluded, "layers A and B not exhibiting offset" is not among a list of alternatives. Thus 112 first rejection has been maintained against claim 13.

36. Applicants filed declaration is not persuasive because it is not in commensurate in scope with the scope of the present claims because declaration shows data for only few types of woven material, while the claim is open to the use of any type of woven material. Further, there is no data at the lower end of the presently claimed basis weight range (40 g/m²). As set forth in MPEP 716.02 (d), whether unexpected results are the result of unexpectedly improved results or a properly not taught by the prior art, "objective evidence of nonobviousness must be commensurate in scope with the claims which the evidence is offered to support". In other words, the showing of unexpected results must be reviewed to see if the result occurred over the entire claimed range, *In re Clemens*, 622 F.2d 1029, 1036, 206 USPQ 289, 296 (CCPA 1980). Applicant have not provided data to show that the unexpected results do in fact occur over the entire claimed range of 40 to 600 g/cm².

37. Further, the declaration only shows a few types of adhesives in interlayer C, i.e. acrylate hot melt adhesive, natural rubber adhesive, and UV crosslinked acrylate adhesive, whereas the claim broadly recites interlayer C as being composed of a viscoelastic adhesive, self adhesive or a double sided adhesive tape. Additionally, the data in Table 2 is not persuasive given that there is not proper side-by-side comparison

between the comparative example B and the inventive examples C and D given that each example uses different type of adhesive. Therefore, it is not clear if the differences are due to the basis weight or to the type of adhesive used.

38. Applicant argues on page 6 of the amendment and in paragraph 20 of the declaration, that the data at from 60-320 g/m² reasonably support the surprising and unexpected improvement over the entire claimed range of the interlayer having a basis weight of 40-600 g/m². While it is agreed that the nonobviousness of a claimed range may be supported by data showing unexpected results of a narrower range if one of ordinary skill in the art would be able to determine a trend in the exemplified data, in the present case, there is no trend, especially at the lower end of the claimed basis weight range. While applicants have data at one point at the lower end of the range, i.e. 60 g/m², this does not allow a trend to be ascertained. This is especially significant given that the basis weight of Samson-Himmelstjerna overlaps the claimed basis weight at the lower end of the claimed range

39. Applicant argues that Samson-Himmelstjerna does not teach or suggest manipulating the basis weight of Interlayer C within the presently claimed range should have the dramatic improvement on abrasion and scuff resistance. As Samson-Himmelstjerna et al. (US 2003/0198806) in view of Zafiroglu (US 7622408) discloses a highly abrasion resistant tape with a basis weight of 135-339 g/m², falls clearly within the range presently claimed to form a composite material with improved structural strength and rigidity. It is noted that even if the declaration were proper, the rejection of Samson-Himmelstjerna in combination with Zafiroglu would still be maintained given

that Zafiroglu already establishes the criticality of using basis weight identical to that presently claimed.

Conclusion

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONAK PATEL whose telephone number is (571)270-1142. The examiner can normally be reached on Monday to Friday 8 AM EST to 6PM EST.

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alicia Chevalier can be reached on 571-272-1490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. P./
Examiner, Art Unit 1788
05/27/2011

/Hoa (Holly) Le/
Primary Examiner, Art Unit 1788